

Complaint Procedures Manual

2015

Kingdom of Bahrain

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Introduction

The National Institution for Human Rights (NIHR) is one of the national mechanisms concerned with ensuring the complete protection of rights of citizens and residents alike as well as participating in developing the policies related to enhancing and improving human rights in Kingdom of Bahrain.

The National Institution role is based upon two main pillars; first, enhancing human rights by disseminating the culture of human rights, establishing the values thereof and ensuring the participation in practice thereof with full freedom and independence; second, protecting human rights by receiving the complaints and (monitor) the places suspected to be location for violating human rights in accordance with Law No. (26) of 2014 on Establishing the National Institution for Human Rights as a legal reference thereof to activate such protection.

Pursuant to this law, Article No. (12), Paragraph (f) thereof stipulates that the National Institution shall be vested with competence...

to receive, examine and consider complaints related to human rights, refer the complaints, which NIHR deems necessary, to the relevant authorities, follow-up the complaints effectively, or inform those concerned of the procedures that should be applied, help them take such procedures, or assist in the settlement of complaints with the relevant authorities.

Accordingly, the NIHR has Stated its vision, mission and objectives; therefore, the Complaint Procedure Manual is an execution of the (NIHR) strategy and action plan for the year (2015-2018) to serve as a standard and reference for dealing with complaints and evaluating (its) subjects thereof and offering the best approach in addressing such complaints in accordance with the best applicable practices. At the same time, the manual is a guide tool to enable all individuals and authorities to deal with (the Presentation of Complaints) mechanism in order to effectively achieve the purpose sought by the National Institution in relation to protecting human rights within the Kingdom of Bahrain.

The process of complaint follow-up is one of the mechanisms of the effective complaints system and it may be the only way to settle the complaint satisfactorily. This requires the cooperation based upon the evaluation of the efforts of National Institution and the authorities concerned in order to protect human rights pursuant to Article No. (12), Paragraph (g) of the NIHR Law which stated that the competences of the National Institution shall include:

"To conduct field visits in accordance with the applicable principles in order to monitor human rights situation in correctional institutions, detention centers, labor gatherings, health and education centers, or any other public place in which it is suspected that human rights violations are committed".

And, Paragraphs No. (a) and (b) of Article No. (14) of the same law, which stipulate:

- (a) "NIHR may request any information, reports or documents which it considers necessary for the attainment of its goals or the performance of its mandates from the ministries and relevant bodies in the Kingdom. These ministries and bodies shall cooperate with NIHR in the pursuit of its tasks, facilitate the conduct of its mandates and provide it with its requests in this regard in accordance with the laws and regulations applicable by these bodies".

- (b) "NIHR may inform the competent authorities in case the ministries and bodies fail to cooperate and provide NIHR with the requested information, reports and documents or prevent it from examining them, in order take the necessary steps in accordance with the law".

Chapter One

General Principles

First: Terms & Definitions

The words and terms mentioned herein shall have the meanings shown next to each, unless the context requires otherwise.

Law	:	Law No. (26) of 2014 on Establishing the National Institution for Human Rights.
Institution	:	National Institution for Human Rights.
Council of Commissioners	:	NIHR Council of Commissioners.
Chairperson	:	Chairperson of Council of Commissioners.
Committee	:	NIHR Complaints, Monitoring & Following-Up Committee.
Chairman	:	Chairman of NIHR Complaints, Monitoring & Following-Up Committee.
Secretariat General	:	NIHR Secretariat General.
Secretary General	:	NIHR Secretary General.
Department	:	Legal Affairs Department in Secretariat General.
Director	:	Director of Legal Affairs Department in Secretariat General.
Unit	:	Complaints & Monitoring Unit at Legal Affairs Department.
Complaint recipient	:	The person entrusted or competent with receiving the complaints and performing the meeting with the complainant; whether such person is one of the secretariat general employees or one of the persons or entities authorized by the NIHR in this regard.
Complaint	:	Any claim regarding any breach of a right or more including the basic rights and freedoms ensured by the national legislations, agreements and international conventions committed on part of the ministries, state's institutions and bodies and the employees thereof.
Complainant	:	Each natural person - whether individual or group - subjected to breach of any of his rights or rights of his relative from the first or

second degree, his attorney or his guardian. The complainant shall be a legal person such as the civil society organizations in different kinds thereof. The complaint may be individual to be submitted by a person regarding breach of any of his rights or group complaint to be submitted by number of the persons regarding breach of any of their rights.

- Breach** : Any breach of the human rights and fundamental freedoms ensured by the national legislations or agreements and international conventions concerned with human rights; whether the breach is by confiscating the right or preventing the actual enjoyment of practicing the same.
- Legal assistance & advice** : Enlightenment regarding the procedures that should be followed during process of presenting the legal advice for the individuals whether on occasion of presenting the complaint and – later – it became apparent that the Institution isn't competent with hearing the same or upon requesting such advice by the individuals in the beginning.
- Following up** : It is a process of communication between the Institution and the authority concerned within the Kingdom on occasion of receiving complaints for inquiring about the complaint and settling the same; whether the communication process is in writing or in any other mean.
- Coordinator** : An employee of the authorities concerned, entrusted with coordinating and following up every action taken by the Institution on occasion of receiving the complaints by it and informing NIHR regarding the procedures taken in connection with the complaints subject matter.
- Authorities concerned** : Constitutional (legislative, executive and judicial) institutions or other non-government bodies.

Second: Code of Conduct

Whereas, the NIHR works for the protection of human rights and the fundamental freedoms of the citizens and residents alike by receiving the complaints, taking the necessary administrative and legal procedures for addressing such complaints and presenting legal assistance and advice for those who need such advice, and, Due to the nature of role and task entrusted to the NIHR; therefore, the code of conduct is developed with the purpose of establishing and recording a set of legal and ethical controls related to the job related conduct of the workers in the unit in such a way to guarantee the good progress of the work thereat and provision of distinct quality human services according to standards governed by integrity, speed, effectiveness and functional efficiency without any discrimination on the basis of gender, ethnicity, language, religion, belief or any other reasons.

Accordingly, the staff working in the unit shall follow the following work rules:

1. To act with tact, patience, avoiding any interference with issues that cause controversy and chaos upon dealing with the complainants and requesters of the legal assistance and advice and all beneficiaries from services rendered by the NIHR in relation to the unit work, to abstain from maintaining the original or any document, report, document or message related to the complaint and not to copy or use the same for private purposes.
2. To be very keen in performing the work accurately, honestly and sincerely, avoiding any considerations that may violate the task they are performing, and to be guided by the values of transparency and integrity and to perform all duties imposed by the work nature as well as the obligations imposed by the law, regulations and instructions of the NIHR.
3. To be committed to strict neutrality in dealing with the public, avoiding sectionalism and undue private interests and concerns upon rendering the services and to consider the time factor through the rapid dealing with and following up the complaints.
4. To be equal in rendering the unit services for all citizens and residents without discrimination on the basis of gender, ethnicity, language, religion, belief, political or party affiliation or any other reasons.
5. To commit secrecy in relation to professional confidentiality or privacy of the beneficiaries of the unit services disclosed due to the nature of work and not to use or disclose such secrets in violation to the law.
6. Not to use the information received while at work or after leaving work for personal interests.
7. To commit to submit the information related to the legal assistance and advice in detail and to reply to any inquiry addressed by the citizens, residents or any entity.

Chapter Two

Competence

First: Complaints the NIHR has Jurisdiction to consider:

1. Individual or group complaints of which the subject matter thereof implies breach of human rights and the fundamental freedoms thereof, provided that such breach is committed by an official entity or has relation to the commission thereof within or outside the regional borders of the Kingdom of Bahrain as long as the entity that committed the breach is an official authority affiliated to the Kingdom of Bahrain.
2. Complaints the NIHR decides to accept for certain considerations; such as complaints of concern to the public opinion or violation of the rights of group of victims.

Second: Complaints the NIHR has no Jurisdiction to consider or it decides not to accept:

1. If the violation has lapsed by the expiration of one year after the occurrence of the breach, unless it's ongoing.
2. If six months lapsed following last procedure performed by the complainant on the subject matter of the complaint with the authority concerned.
3. If the complaint subject matter has been heard before a judicial or administrative investigation committee, presented to the court or a judgment is passed on the same; unless the issue is related to a breach of right to enjoy guarantee of a fair trial.
4. If the NIHR has decided to discontinue considering the complaint previously due to lack of evidence or seriousness thereof, unless something occurs warranting reconsidering the same.
5. Complaints involving to an insult to an official entity or public figure.
6. Complaints involving disputes between individuals or private entities.
7. Complaints related to humanitarian aid from official authority, unless the reason not to provide assistance is due to discrimination by the authorities for considerations of gender, religion, race, color, political affiliation or disability.
8. If all national avenues concerned have not been exhausted, or if there is an authority with primary competence to hear the complaint subject matter.

Chapter Three

Complaint Receipt Procedure

First: Who is eligible to file a complaint?

- The NIHR receives complaints from individuals in various capacities with a vested interest in filing the complaint, or from a second degree relative or by his legal representative by virtue of an official authorization; whether natural or legal person as well as from civil society organizations and other competent authorities.
- The complaints may be received from children less than eighteen years old, if the child's guardian, custodian or legal attorney is notified as the case may be.

Second: Means of presenting complaint forms:

To present a complaint to the NIHR, one of the following complaint presentation can be used:

1. Complaint presentation online:

Filling the required data in the electronic Complaint Presentation Form available on the NIHR website at (www.nihr.org.bh).

2. Complaint receipt via email or fax:

Filling the required data in the Complaint Presentation Form available on the NIHR website in PDF format and then printing and sending the same via fax or email to (complaint@nihr.org.bh).

In either case, the complainant or his/her representative is required to attend in person to NIHR in accordance with the applicable principles to sign the complaint form and complete the procedures thereof so as to ensure the seriousness of the complaint and to authorize the NIHR to follow up the complaint and to act as a mediator with the official authorities.

3. Complaint receipt by telephone:

The complaint can be received by telephone, in cases when it is impossible for the complainant or his representative to attend.

4. Complaint submission at the NIHR headquarters:

The complaint received at the NIHR headquarters is attended to in a room allocated for receiving complaints by submitted by individuals or their representatives in person in accordance with the applicable principles. If the complainant be unable to come to NIHR in person for on health grounds or cause of disabled, or any other reasons, and there is no representative for him/her, the complaint shall be received at the location of the complainant.

Third: Complaint Processing Procedures:

1. The complainant begins with presenting the compliant subject matter in detail and the complaint-receiving official takes notes regarding the case. It is important that the official does not intervene or expresses opinion regarding the result to be concluded and shall not influence the complainant in such a way to affect the case thereof, unless the complainant has elaborated on issue not related to the subject matter of complaint.
2. The complainant is requested to fill the complaint submission form in Arabic or English and he/she shall be assisted in filling the required data with ensuring that all probative and supportive documents for the alleged violation submitted.
3. In case of failure to fill the complaint submission form by the complainant thereof due to lack of language proficiency or inability to write, or due to illegible writing, or health reasons, or due to any other reasons, the form shall be filed by the compliant receiving official. This shall be indicated in the space allocated for remarks in the form.
4. The complaint shall be given a serial number for the year of submittal thereof and for purpose of documentation and follow-up.
5. The complainant undertakes the following:
 - a. To deal with the compliant in accordance with Law No. (26) Of 2014 on establishing the National Institution for Human Rights, the main objectives and scope of work mentioned therein.
 - b. All submitted information is true, accurate and correct.
 - c. The NIHR can use such information, which may include private and confidential information, to deal with the complaint effectively.
 - d. There may be need for the NIHR to exchange the information on the compliant with the authority(ies) concerned or any other relevant entity or organization.

- e. Communication with the complainant to update him/her on the latest developments or to request additional information related to the complaint.
 - f. Examples for the submitted complaint may be published with respect to the privacy and maintaining the confidentiality of personal information.
6. The NIHR shall provide the complainant - upon his/her request - a statement containing his/her data and summary of the complaint subject matter, date and number. A copy thereof shall be attached to the original complaint.

Chapter Four

Legal Opinion on Complaint

First: Complaint Evaluation

After receiving the complaint, the unit shall examine the same and examine all formal aspects related thereto. The unit shall take a decision on accepting or rejecting the complaint or accepting the same on condition of completing the data thereof pursuant to the procedures thereof applicable in the department and requesting the complainant to complete the same within five working days.

Second: Examining the complaint, giving legal opinion and making recommendations:

After the complaint supportive and probative documents of subject matter thereof are deemed satisfactory, the complaint shall be examined by the unit within five working days. A memorandum shall be prepared on the legal opinion regarding the breached right supported legally by national legislations, agreements and international conventions on human rights, resolutions, regulations and general comments of the treaties bodies or the special notes of the special procedures. A recommendation shall be made to follow a specific procedure and present the same to the Department Director for approval and submittal to the Chairman through the Secretary General.

Third: complaints warranting urgent intervention:

If the complaint subject matter is related to a breach warranting an urgent intervention and where there is fear that harm may occur while following regular procedure. After verifying the occurrence of a breach and that NIHR is competent to hear the complaint, the committee chairman shall be notified of the complaint subject matter and the proposed recommendation shall be presented in order for him/her to take what he/she deems appropriate, provided the complaint relevant procedures are taken into account later.

Chapter Five

Complaint Follow Up

First: Communication with competent authority

The Communication with competent authority is conducted in many ways:

1. Direct communication:
The chairman is authorized to contact the authority concerned directly by telephone or through meeting the representative thereof, to examine the complaint subject matter, to settle the same and mediate in the settlement thereof.
2. Communication through written correspondence:
The competent authority shall be addressed in writing in the form of queries or inquiry or verification or clarification or taking the procedures applicable in this regard. The probative documents that support the complaint subject matter shall be attached.
3. Request a visit or urgent site visit:
The NIHR may request an urgent visit or to move immediately to the location where a breach is committed – as the case may be – in accordance with the applicable principles, if it is believed that the breach is made in any of the correctional institutions, detention centres, labor gathering sites, health and educational facilities or any other place suspected to be a site for breaching human rights.

Second: Procedures Follow Up:

1. Follow up with the coordinator:
After addressing the entity concerned, the unit shall follow up with the coordinator to know the procedures taken toward the subject matter of the complaint and what occurred in its regard.
2. Receiving reply of the entity concerned:
After receiving the reply of the entity concerned, the unit shall prepare a follow up memorandum of complaint containing the procedures taken toward the complaint, the content of reply of the authority concerned and proposal of the appropriate recommendation in this regard. The memorandum shall be submitted to the Department Director for approval and submittal to the Chairman through the Secretary General.

3. Readdressing the entity concerned:
 - a. The authority concerned shall be readdressed in case its reply isn't convincing and isn't sufficient to ask for further investigation or clarification or in case a new development has arisen in relation to the complaint subject matter.
 - b. The authority concerned shall be contacted again if they fail to reply to the NIHR letter within a period of one month after date of sending the first "letter".

4. Failure of the entity concerned to reply despite repeated correspondence:

The NIHR, In accordance with Paragraph "b" of Article "14" of Its Law may inform the competent authorities in case the ministries and bodies fail to cooperate and provide NIHR with the requested information, reports and documents or prevent it from examining them, in order take the necessary steps in accordance with the law. In this case, the NIHR shall take the following actions gradually:

 - a. Meeting the representative of the competent authority concerned.
 - b. Meeting the representative of the legislative authority concerned that has oversight authority on such ministries and bodies.
 - c. Holding a press conference or issuing a statement.
 - d. Citing the failure of the authority concerned to cooperate in compiling the NIHR annual report.

Third: Complainant notification

The complainant shall be notified orally regarding the procedures taken toward the complaint and this shall be recorded in the complaint file.

Chapter Six

Suspension of Complaint procedures and the complaint Closure

First: Cases of suspension of complaint procedure:

A complaint procedure may be suspended in the following cases:

1. Upon complainant's desire by virtue of a written request signed by the complainant.
2. Complainant's lack of seriousness or delay in providing the required information and documents after the passage of five working days from the complaint submittal date.
3. If the complainant started procedures related to the subject matter of the complaint before any administrative or judicial investigation authority or any other authority.
4. If it became apparent that the subject matter of complaint isn't logical or malicious.

In all cases, the complainant shall be notified orally regarding the procedures taken toward the complaint.

Second: Complaint Closure:

The complaint shall be Closed:

1. Due to achieving the desired outcome by addressing the breach or that the authority concerned has taken the required procedures toward it.
2. Due to the absence of a right violation following a study of the subject matter of complaint and the evidence and documents attached to the complaint.
3. Due to the lack of competence, as it is being pending before a judicial or administrative authority or there is an authority that has original and exclusive jurisdiction to hear the complaint.
4. Due to the lack of seriousness of the submitter thereof in terms of failure to follow up the case or delay in providing the information and documents related thereto.
5. Due to the absence of the evidence or proof on occurrence of the breach.
6. Due to failure of the authority concerned to cooperate.

In all cases, upon suspending the progress of the complaint procedures, or Closure the complaint, the reasons for taking such action shall be made clear and shall be recorded in the complaint legal opinion memorandum.

Third: Protesting the decision issued on the complaint

The compliant shall be entitled to appeal the decision issued to suspend or Closed the complaint or due to lack of competence to hear the same within five (5) working days from the date of notifying him/her.

The following procedures shall be followed:

1. A formal written protest shall be submitted to the Chairman through the Secretary General indicating the reasons thereof.
2. The protest shall be submitted to the committee for guidance to take the necessary procedures regarding the case.
3. The protestant shall be informed of the decision taken regarding the same.

Fourth: Reopening complaint

The complaint may be reopened and followed up again should justifications arise, such as submittal of evidence or proof that the complainant is serious or any other reasons. In such cases, the justifications of reopening the complaint shall be determined and the procedures related to studying the complaint shall be followed.

Chapter Seven

Legal Assistance and Legal Advice

The NIHR offers legal assistance and advice to individuals or any authorities whether in case of presenting a complaint that turns out to be not under the NIHR jurisdiction or simply upon requests for legal assistance and advice, by enlightening the complainant regarding the applicable procedures, to assist him/her to follow such procedures and to submit information on the subject matter of the complaint under consideration.

The complainant shall be enlightened regarding the procedures to be taken before approaching the Institution and that all means of legal and administrative remedy and complaint are to be exhausted as the case may be as well as approaching the competent security authorities or referring to other authorities with original jurisdiction to consider the complaint.

The Institution shall be entitled to look into the assistance application that does not form breach in the real sense, but is regarded as violations to the Kingdom's commitments to international conventions.

The application for assistance shall be submitted to the Unit Head and Department Director accompanied by the legal opinion and appropriate recommendations in preparation for presenting the same to the Chairman through the Secretary General to take the appropriate decision in this regard.